

**VIRGINIA BOARD OF NURSING
MINUTES
SEPTEMBER 24, 2002**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on September 24, 2002 in Conference Room 2, Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

PRESIDING: Janet B. Younger, Ph.D., R.N., President

**BOARD MEMBERS
PRESENT:**

Linda Ault, R.N., M.S.N., Vice President
Louise D. Hartz, Citizen Member, Secretary
Marion Alderman, Citizen Member
Lynne McNally Cooper, Citizen Member
Shelley F. Conroy, R.N., Ed.D.
Carol E. King, L.P.N., M.S.
Louisa Lief, R.N., M.S. (joined later)
Denise Oppenhagen, R.N., B.S.N.
Julia C. Semple, L.P.N.
Dawn M. Sykes, R.N., B.S.N.
JoAnn Tillett, R.N.
Diane Tramel, L.P.N.

STAFF PRESENT: Nancy K. Durrett, R.N., M.S.N., Executive Director
Jay P. Douglas, R.N., M.S.M., C.S.A.C., Deputy Executive Director, Discipline
Grace Johnson, R.N., M.A., M.S.N., Deputy Executive Director, Nursing
Education
Jodi P. Power, R.N., J.D., Deputy Executive Director, Nurse Aide Registry
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Nurse Aide Education
Amy Davis, Administrative Assistant

OTHERS PRESENT: Howard Casway, Assistant Attorney General
Robert Nebiker, Director, Department of Health Professions
Elaine Yeatts, Regulatory Coordinator, Department of Health Professions
Greg Huber, Virginia Nurses Association Commissioner of Government
Relations

**ESTABLISHMENT OF
A QUORUM:** With 12 members of the Board present, a quorum was established.

ANNOUNCEMENTS: Lynne Cooper, Citizen Member, Denise Oppenhagen, R.N. and Julia Semple, L.P.N. have been appointed to the Board of Nursing.

Linda Ault, R.N., M.S.N. has been appointed to the Board of Health Professions.

The next Board of Nursing meeting dates are November 18-21, 2002.

The next Committee of the Joint Boards of Nursing and Medicine meeting is November 6, 2002.

The Department of Health Professions is moving to 6603 West Broad Street in November 2002.

Ms. Durrett announced her retirement as Executive Director of the Board of Nursing effective January 1, 2003.

Grace Johnson announced her retirement as Deputy Executive Director, Nursing Education effective January 1, 2003.

Ms. Lief joined the meeting.

WELCOME:

Dr. Younger welcomed the new board members and had board members and staff introduced themselves.

**DIALOGUE WITH
MR. NEBIKER:**

Mr. Nebiker discussed the fiscal issues for the Department, including travel expenses, spending, and regulation changes. He also reviewed the status of the Health Practitioners Intervention Program contract, and discussed that the Department of Health Professions would be moving in November. Mr. Nebiker announced a board member orientation is scheduled for October 30, 2002.

ORDERING OF AGENDA: The Agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed two items from the proposed consent agenda and adopted a motion by Ms. Tramel to accept the consent agenda which includes:

Minutes:

July 15, 2002 – Ms. Ault

July 16, 2002 – Meeting

July 17, 2002 – Meeting

August 14, 2002 – Telephone Conference Call

Finance Report

Open Cases Report

Case Summary Report

License Count Report

Applicant Count Report

New License Summary Report

Examinations: NCLEX

Probation Completed

Successful Completion of Health Practitioners Intervention Program

The motion was seconded and carried unanimously.

REPORTS:

Health Practitioners Intervention Program:

The report presented by Ms. Douglas was accepted as information.

Centennial Committee:

The report presented by Ms. Douglas and Dr. Saxby was accepted as information.

Board Counsel:

Mr. Casway discussed changes to be implemented in the Board's orders. The section of the *Code of Virginia* and the Board of Nursing Regulation violated will now be included for each finding of fact.

Mr. Nebiker left the meeting.

RECESS: The Board recessed at 10:30 A.M.

RECONVENTION: The Board reconvened at 10:50 A.M.

POLICY FORUM: Ms. Corinne Dorsey, Chairperson of the Centennial Planning Committee, presented "Centennial Minutes". This presentation included information on former board member Julia Mellenchamp.

The Board viewed a NCSBN video entitled "Delegating Effectively".

OPEN FORUM: Mr. Huber shared the views of the Virginia Nurses Association regarding the survey done by the Virginia Nurses Association on the use of first and last names on nursing employee name tags; possible legislation allowing nurses to do PPD testing without an order and the proposal by the Advisory Council on the Future of Nursing in Virginia regarding to seek legislation to implement multi-state nursing licensure compact.

RECESS: The Board recessed at 12:15 P.M.

RECONVENTION: The Board reconvened at 1:05 P.M.

Advisory Council of the Future of Nursing in Virginia:

The report presented by Dr. Younger was accepted as information.

New Committee Assignments:

Dr. Younger presented the new committees (attached).

Change in motion for closed session:

A copy of the motions, including the changes effective July 1, 2002, was distributed.

REGULATIONS: **Public Hearing on Advanced Certified Nurse Aide Regulations:**

Two individuals were present and addressed the Board.

Public Hearing on Regulations Governing the Licensure of Nurse Practitioners following Periodic Review:

No one was present to speak to the Board.

Consideration of Proposed Regulations to replace emergency regulations on voluntary practice.

Ms. Yeatts reviewed the proposed regulations.

Ms. Hartz moved to adopt the final regulations.
The motion was seconded and carried unanimously.

Consideration of final regulations for Prescriptive Authority:

Ms. Yeatts reviewed the proposed regulations.

Ms. Hartz moved to adopt the final regulations.
The motion was seconded and carried unanimously.

Consideration of final regulations for Massage Therapy:

Ms. Yeatts reviewed the proposed regulations.

Dr. Conroy moved to retain provisional certification 18 VAC 90-50-60.
The motion was seconded and carried unanimously.

Dr. Conroy moved to adopt 18 VAC 90-50-90 as amended.
The motion was seconded and carried unanimously.

Ms. Hartz moved to adopt the regulations as amended.
The motion was seconded and carried unanimously.

Reconsideration of 18 VAC 90-20-90 of the Regulations Governing the Practice of Nursing:

Ms. Yeatts reviewed the proposed regulations regarding faculty qualifications.

Ms. Tramel moved to continue discussion until September 25, 2002.
The motion was seconded and carried unanimously.

REPORTS CONTINUED:

Test Service Transition:

The report presented by Ms. Johnson was accepted as information. The new vendor, Pearson, will begin testing on October 1, 2002.

Mary Marshall Scholarship:

The report presented by Ms. Johnson was accepted as information. 74 students in registered nurse programs and 39 in practical nurse programs received scholarships.

Approval of informal conference committee minutes:

Ms. Durrett explained the new process which has been implemented to avoid tainting the other members of board should a case proceed to a formal hearing.

NNAAP examination:

The report presented by Dr. Saxby was accepted as information.

NCSBN Annual Meeting Report:

Ms. Ault and Ms. Durrett presented information from the meeting that was accepted as information.

Mentors for new board members:

Dr. Younger assigned Ms. King to be the mentor for Ms. Semple, Dr. Conroy to be the mentor for Ms. Oppenhagen and Ms. Hartz to be the mentor for Ms. Cooper.

EDUCATION
PROGRAMS:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on September 23, 2002.

Ms. Tramel moved that the Board of Nursing adopt the recommendations. The motion was seconded and carried unanimously.

OTHER MATTERS
CONTINUED:

Request for accommodation for examination:

CLOSED SESSION:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.1-344.A.15 of the *Code of Virginia* at 2:40 P.M. for consultation with and the provision of legal advice by the Assistant Attorney General in the matter of a request for accommodation for examination. Additionally, Ms. Hartz moved that Ms. Durrett, Ms. Douglas, Ms. Johnson, Dr. Saxby, Ms. Power and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 3:00 P.M.

Ms. Hartz moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Patricia Lynne McLain

Dr. Conroy moved to grant the candidate time and one half and a separate room. The motion was seconded and carried unanimously.

Kimberly Michelle Mann Oakley

Ms. Tramel moved to grant the candidate time and one half. The motion was seconded and carried unanimously.

Staff response to Discipline Resource Needs:

Ms. Alderman moved to authorize staff to offer pre-hearing consent orders in additional scenarios. For licensees to include reprimand for unprofessional conduct when the original allegation was verbal/physical abuse but where there are mitigating circumstances for the inappropriate response; sanction offered consistent with action already taken by another state (i.e., probation). For initial and reinstatement applicants offer sanction consistent with that existing in another state; approval contingent upon Health Practitioners Intervention Program participation and continued compliance (e.g. reinstatement after lapsed

license under prior Board order to remain in the Health Practitioners Intervention Program; applicants in the Health Practitioners Intervention Program whose only cause for denial relates to impairment issues, etc.); reinstatement with same terms of probation for a probationer who allowed their license to lapse. The motion was seconded and carried unanimously.

Dr. Conroy moved to enhance reinstatement application to require the applicant to provide more information at the time making application in an effort to decrease the number of background investigations requested and therefore decrease the time it currently takes to consider the reinstatement request. The motion was seconded and carried unanimously.

Ms. Hartz moved to delegate the staff the authority to modify probation orders and report to the Board the number of orders modified. The motion was seconded and carried unanimously.

Dr. Conroy moved to delegate to staff the authority to perform administrative review following communication from the Intervention Program Committee related to successful completion of the Health Practitioners Intervention Program for persons under prior Board order to “Take no action contingent upon Health Practitioners Intervention Program completion,” and issue an Order of successful completion of terms. The motion was seconded and carried unanimously.

Ms. Hartz moved to not recommend allowing respondents to appear and testify by telephone to decrease the number of continuances and in venue hearings. The motion was seconded and carried. Ms. Lief abstained.

Ms. Tramel moved to support allowing select cases to be heard by a hearing officer should the agency volume support this concept. The motion was seconded and carried. Ms. Alderman voted no. Ms. Oppenhagen abstained.

Ms. Lief moved to refer the issue of staff conducting informal conferences in select cases to the Disciplinary Committee. The motion was seconded and carried unanimously.

Volunteers to present update to Virginia Nurses Association:

Ms. Durrett reported that Dr. Saxby would represent the Board of Nursing.

Cost cutting measures:

Ms. Durrett stated to be responsive to the budgetary crisis, morning break food will no longer be provided effective with the November 2002 board meeting, and board staff will no longer be provided lunch unless it is a working lunch.

CLOSED SESSION:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 3:50 P.M. for the purpose of consideration and discussion of consent orders. Additionally, Ms. Hartz moved that Ms. Durrett, Ms. Douglas, Ms. Johnson, Dr. Saxby, Ms. Power and Mr. Casway attend the closed meeting because their presence in the closed

meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 3:54 P.M.

Ms. Hartz moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

CASE ADJUDICATION:

Consent Orders:

Holly C. Brewer, C.N.A. 1401-085637

Ms. Hartz moved to accept the Consent Order for the surrender of Ms. Brewer's certificate.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Wendy Moore Fink, L.P.N. 0002-051757

Dr. Conroy moved to accept the Consent Order for indefinite suspension of Ms. Fink's license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Sheryl Lenoris Mason, L.P.N. 0002-048568

Ms. Tramel moved to accept the Consent Order for indefinite suspension of Ms. Mason's license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Patricia L. Mesirow, R.N. 0002-075209

Ms. Sykes moved to accept the Consent Order for indefinite suspension of Ms. Mesirow's license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Doris Price, C.N.A. 1401-004624

Ms. Lief moved to accept the Consent Order for indefinite suspension of Ms. Price's certificate.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Nancy Milliron, R.N., 0001-127120

Ms. Ault moved to accept the Consent Order for indefinite suspension of Ms. Milliron's license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Doris Lyons, R.N., 0001-070336

Ms. Lief moved to accept the Consent Order for indefinite suspension of Ms. Lyons' certificate.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

ADJOURNMENT:

The meeting was adjourned at 4:07 P.M.

Louise Hartz, Citizen Member
Secretary